

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10492 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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IDRISH ALIBHAI KINKHABWALA

Versus

TEJABHAI MULABHAI RABARI

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Appearance:

MR MC KAPADIA for Petitioner

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/09/97

ORAL JUDGMENT

This Special Civil Application has been filed by petitioner in this Court in December 1995. Once it has also been dismissed for non prosecution. This petition has not been admitted so far.

2. The petitioner, by this Special Civil Application is challenging the legality, validity, and correctness of the order of the Gujarat Revenue Tribunal in Revision Application No.TEN.B.S. 278 of 1989 dated 21st August

1995. Under this order, the revision application filed by the petitioner and respondents No.4 to 7 has been dismissed.

3. The dispute pertains to survey No.28 Paiki admeasuring acre 1 - 10 gunthas, situated in Sultanabad, Taluka: Choryasi, District: Surat. As per the petitioner, the said land is a non agricultural land. The respondent No.1 herein filed an application under Section 17(B) and 18(B) of the Bombay Tenancy & Agricultural Lands Act, 1948, before the Mamladar & ALT, Choryasi, dated 17.3.86. That application was dismissed by the Mamlatdar and ALT on 25th May 1988 and the said matter was taken up by respondents No.1 in appeal before the Assistant Collector, Choryasi Prant, Surat. Under the order dated 13th April 1989, the Assistant Collector allowed the said appeal and the order of the Mamlatdar dated 25th May 1988 has been set aside and the matter has been remanded back to him to decide the same afresh. The petitioner and the respondents No.4 to 7 preferred revision application before the Revenue Tribunal and under the impugned order the revision application has been dismissed.

4. The Revenue Tribunal has not interfered in the matter only on the ground that the Assistant Collector has remanded the matter and nothing on merits has been decided by the said authority. It is only an interlocutory order against which the petitioner and the respondents aforesaid have filed revision application. When the revisional authority itself has not interfered in the matter only on the ground that it is a remand order / interlocutory order, I fail to see how this Special Civil Application is maintainable before this Court. Otherwise also, this order has been passed by the Tribunal on 21st August 1995 and since then more than two years have expired. There is a possibility that by now the remanded matter would have been decided. The learned counsel for the petitioner is unable to throw any light on this question. The only contention made by learned counsel for the petitioner is that the Tribunal has committed serious error in not giving direction to the Mamlatdar & ALT to decide the matter within a reasonable time. He further prayed that this Court may give direction to the Mamlatdar to decide the matter within a reasonable time as the respondent is adopting dilatory tactics in the matter. I do not find any justification in this apprehension for the reason that such prayer has not been made by the petitioner before the Tribunal. Secondly, though this petition has been filed before more than two years, the learned counsel for the petitioner

himself is not in a position to say whether the matter has been decided or not. Otherwise also, merely because some of the litigants have afforded to come up before this Court, it is unfair to give priority to the matters of later years over old matters. All the litigants have equal right of speedy disposal of the matter and no preference can be given only on this ground.

5. The Special Civil Application is wholly misconceived and the same is dismissed. No order as to costs.

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(sunil)